

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
DINO PHILLIPS,

Plaintiff,

- v -

THE CITY OF NEW YORK, et al,

Defendants.  
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**MEMORANDUM ORDER**

CV-10-2330 (CBA)(VVP)

The plaintiff has moved for an order unsealing the grand jury testimony of three police officers given in the criminal case against the plaintiff on the charges that underlie the false arrest and malicious prosecution claims made in this case. The defendants have advised the court that they will not oppose the motion. The plaintiff has set forth in their application a substantial factual and legal basis for granting the relief requested under the standards applicable to motions to unseal grand jury minutes. Ordinarily, this court requires such applications to be made to the state court in the first instance as a matter of comity. In this case, however, the grand jury minutes have already been disclosed to the parties because they were previously provided to the plaintiff in the course of the criminal proceedings, albeit without the entry of an unsealing order. As a result, the relief requested here is largely ministerial and will not offend principles of comity. Accordingly, in the interests of avoiding unnecessary delay in the proceedings before the court the motion is granted and the grand jury minutes of the testimony of Hector Morales, Edwin Espinal, and Peter O'Neill in the case of *The People of the State of New York v. Dino Phillips*, Index No. 4959/2007 are hereby ordered to be unsealed.

The minutes shall be subject to confidentiality, however, and their use is therefore limited to proceedings in this case. They shall not otherwise be disclosed to anyone other than the parties and their counsel, and are not to be used for any purpose other than the prosecution of the plaintiff's claims in this action.

SO ORDERED:

*Viktor V. Pohorelsky*

VIKTOR V. POHORELSKY  
United States Magistrate Judge

Dated: Brooklyn, New York  
December 1, 2011